

**REMARKS**

Claims 1-51 and 54-99 are pending in this application. Claims 1-34 are withdrawn from consideration as being drawn to a non-elected group of claims. By this Amendment, claims 22, 35-45, 47-50, 56, 63-68, 70-72, 77, 82-85 and 90-94 are amended. No new matter is added by these amendments. Support for these amendments can be found at least in Figs. 11A-14D of the specification. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: place the application in condition for allowance for the reasons discussed herein; do not raise any new issue requiring further search and/or consideration as the amendments amplify issues previously discussed throughout prosecution; and place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Applicants appreciate that the Office Action indicates claims 36-45, 47-50, 52, 53, 56, 58-60 and 62-99 recite allowable subject matter. Claims 70-72, 77, 82-85 and 90-94 have been amended into independent form. However, for the reasons discussed below Applicants respectfully assert that all claims contain allowable subject matter.

The Office Action objects to claim 22 for informalities. Claim 22 has been amended to obviate the objection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to claim 22.

The Office Action rejects claims 35, 46, 51, 54, 55, 57 and 61 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0117617 to Yoshida et al. (hereinafter "Yoshida"). Applicants respectfully traverse this rejection.

The Office Action asserts Yoshida teaches all the features recited in independent claim 35. However, Yoshida does not teach, nor would have suggested, a transistor including at least a source and a drain "wherein at least one of the source and the drain comprise a tunnel barrier joined to the ferromagnetic semiconductor layer," as recited in amended claim 35.

Yoshida, in Fig. 2 and paragraph [0085], teaches a source 3, a drain 4 and a gate insulator 5 are provided on the upper surface of a p-type half-metal ferromagnetic semiconductor layer 1. However, Yoshida does not teach a transistor "wherein at least one of the source and the drain comprise a tunnel barrier joined to the ferromagnetic semiconductor layer," as recited in claim 35.

For at least the reasons above, Yoshida cannot reasonable be considered to teach, nor would have suggested, the combinations of all the features recited in at least independent claim 35. Further, claims 46, 51, 54, 55, 57 and 61 would also not have been suggested by the applied references for at least the respective dependence of these claims on allowable independent claim 35, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 35, 46, 51, 54, 55, 57 and 61, in addition to the continued allowance of claims 36-45, 47-50, 52, 53, 56, 58-60 and 62-99, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Tiffany J. Brooks  
Registration No. 57,912

JAO:TJB/mab

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

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